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3 Nevada State Bar No. 11479  
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11 Attorney for Fred Walker

12  
13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15 United States of America,  
16  
17 Plaintiff,  
18  
19 v.  
20 Fred Walker,  
21  
22 Defendant.

Case No. 2:03-cr-00516-GMN-DJA-1

**Joint Agreement and Stipulation to  
Relief Under 2018 First Step Act  
and to a Reduced Sentence**

23 It is hereby stipulated and agreed, by and between the United States of  
24 America, represented by Assistant United States Attorney Elizabeth O. White,  
25 and Defendant Fred Walker, represented by Assistant Federal Defender Cristen  
26 C. Thayer, that Mr. Walker is eligible for relief from his lifetime prison sentence  
under the 2018 First Step Act and that his sentence should be reduced.

Specifically, the parties stipulate and agree:

1           1.       Mr. Walker is 52 years old and has been incarcerated for more than  
2 16 years. He is serving a mandatory life sentence imposed for a crack cocaine  
3 offense committed in 2003. Mr. Walker was convicted by a jury of: possession  
4 with intent to distribute 50 grams or more of crack cocaine, 21 U.S.C. § 841(a)(1),  
5 (b)(1)(A)(iii) (Count One); carrying a firearm in relation to a drug trafficking  
6 crime, 18 U.S.C. § 924(c)(1)(A) (Count Two); and prohibited person in possession  
7 of a firearm, 18 U.S.C. §§ 922(g)(1) and 924(a)(2) (Count Three). The Court  
8 sentenced Mr. Walker to then-statutorily mandated life imprisonment for Count  
9 One, five years mandatory consecutive imprisonment on Count Two, and ten  
10 years concurrent imprisonment on Count Three. ECF No. 64.

11           2.       In 2018, Congress passed the First Step Act, Pub. L. No. 115-391,  
12 § 404, 132 Stat. 5194, 5222 (Dec. 21, 2018) (codified at 21 U.S.C. § 841). Section  
13 404 of the First Step Act grants this Court broad discretion to reduce sentences  
14 imposed under the excessive crack-cocaine penalty structure renounced by  
15 Congress.

16           3.       Mr. Walker meets the eligibility requirements for a reduction under  
17 Section 404 of the First Step Act because the statutory penalties for crack-cocaine  
18 offenses in place at the time of Mr. Walker's sentencing in 2004 were lowered by  
19 the Fair Sentencing Act of 2010 (FSA). *See* Pub. L. 111-220, § 2, 124 Stat 2372  
20 (Aug. 3, 2010) (codified at 21 U.S.C. § 841). Because the government filed a  
21 notice under 21 U.S.C. § 851 for Mr. Walker's prior drug convictions (ECF No.  
22 21), Mr. Walker's statutory range is now a minimum of ten years with a  
23 maximum of life imprisonment. *See* 21 U.S.C. § 841(b)(1)(B).

24           4.       The parties and the Probation Department all agree that  
25 Mr. Walker's new total offense level under the Sentencing Guidelines is 24 and  
26

1 his criminal history category is VI. His advisory guideline ranges are therefore:  
2 120-125 months for Count One, 5 years consecutive for Count Two, and 120  
3 months for Count Three.

4         5.       The Probation Department recommends 120 months for Count One,  
5 60 months consecutive for Count Two, and 120 months concurrent to Count One  
6 for Count Three, for a total sentence of **180 months imprisonment**. The  
7 Probation Department also recommends an 8-year supervised release term for  
8 Count One (the statutorily mandated minimum amount), a 5-year supervised  
9 release term for Count Two, and a 3-year supervised release term for Count  
10 Three, to run concurrently to each other, for a total of **8 years of supervised**  
11 **release**.

12         6.       Mr. Walker has already served more than a year longer in prison  
13 than the Probation Department's recommended 180-month sentence. Mr. Walker  
14 has been in continuous federal custody since November 21, 2003. Thus, as of the  
15 date of this filing, Mr. Walker has been in custody for 195 months.

16         7.       The parties therefore request the Court:

- 17         (A)     Hold that Mr. Walker is eligible for a sentence reduction under the  
18                 2018 First Step Act;  
19         (B)     Reduce Mr. Walker's prison sentence to 120 months for Count One;  
20                 60 months for Count Two, run consecutive to Count One; and 120  
21                 months on Count Three, run concurrent to Count One, for a total  
22                 sentence of 180 months;  
23         (C)     Impose an 8-year supervised release term for Count One, 5-year  
24                 supervised release term for Count Two, and 3-year supervised  
25                 supervised release term for Count Two, and 3-year supervised  
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1 release term for Count Three, to run concurrently to each other, for  
2 a total of 8 years of supervised release; and

3 (D) Enter an amended judgment of conviction reflecting the reduced  
4 prison and supervised release terms. The parties do not object to  
5 the supervised release conditions recommended in the Probation  
6 Department's Reduction of Sentence Report dated February 24,  
7 2020.

8 8. Because the parties' recommended sentence reduction will result in  
9 Mr. Walker's immediate release, the parties further request the Court order  
10 Mr. Walker's release be delayed for 10 calendar days from the date of the Court's  
11 order granting this Agreement and Stipulation. This 10-day period will enable  
12 the Bureau of Prisons to complete certain statutory requirements prior to  
13 Mr. Walker's release, including but not limited to notifying any victims and  
14 witnesses as required by 18 U.S.C. § 3771, and collecting DNA samples pursuant  
15 to 42 U.S.C. § 14135a.

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17 9. If the Court is considering denying this Agreement and Stipulation,  
18 the parties request the Court allow them to first fully brief First Step Act  
19 eligibility and the reasons for the requested relief.

20 Dated: February 25, 2020.

21 RENE L. VALLADARES  
22 Federal Public Defender

NICHOLAS A. TRUTANICH  
United States Attorney

23 By: /s/ Cristen C. Thayer  
24 Cristen C. Thayer  
25 Assistant Federal Public Defender

By: /s/ Elizabeth O. White  
Elizabeth O. White  
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
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5 United States of America,  
6 Respondent-Plaintiff,  
7 v.  
8 Fred Walker,  
9 Petitioner-Defendant.  
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Case No. 2:03-cr-00516-GMN-DJA-1

**[Proposed]**

**Findings of Fact and Order**

12  
13 Based on the Agreement and Stipulation of counsel, and good cause  
14 appearing, the Court finds that:

15 1. Mr. Walker is serving a mandatory life sentence imposed for a crack  
16 cocaine offense committed in 2003. Mr. Walker was convicted by a jury of:  
17 possession with intent to distribute 50 grams or more of crack cocaine, 21 U.S.C.  
18 § 841(a)(1), (b)(1)(A)(iii) (Count One); carrying a firearm in relation to a drug  
19 trafficking crime, 18 U.S.C. § 924(c)(1)(A) (Count Two); and prohibited person in  
20 possession of a firearm, 18 U.S.C. §§ 922(g)(1) and 924(a)(2) (Count Three). The  
21 Court sentenced Mr. Walker to then-statutorily mandated life imprisonment for  
22 Count One, five years mandatory consecutive imprisonment on Count Two, and  
23 ten years concurrent imprisonment on Count Three. ECF No. 64.

24 2. In 2018, Congress passed the First Step Act, Pub. L. No. 115-391,  
25 § 404, 132 Stat. 5194, 5222 (Dec. 21, 2018) (codified at 21 U.S.C. § 841). Section  
26

1 404 of the First Step Act grants this Court broad discretion to reduce sentences  
2 imposed under the excessive crack-cocaine penalty structure renounced by  
3 Congress.

4 3. Mr. Walker meets the eligibility requirements for a reduction under  
5 Section 404 of the First Step Act because the statutory penalties for crack-cocaine  
6 offenses in place at the time of Mr. Walker's sentencing in 2004 were lowered by  
7 the Fair Sentencing Act of 2010 (FSA). *See* Pub. L. 111-220, § 2, 124 Stat 2372  
8 (Aug. 3, 2010) (codified at 21 U.S.C. § 841). Because the government filed a  
9 notice under 21 U.S.C. § 851 for Mr. Walker's prior drug convictions (ECF No.  
10 21), Mr. Walker's statutory range is now a minimum of ten years with a  
11 maximum of life imprisonment. *See* 21 U.S.C. § 841(b)(1)(B).

12 4. Mr. Walker's new total offense level under the Sentencing  
13 Guidelines is 24 and his criminal history category is VI. His advisory guideline  
14 ranges are therefore: 120-125 months for Count One, 5 years mandatory  
15 consecutive for Count Two, and 120 months for Count Three.

16  
17 IT IS THEREFORE ORDERED that Mr. Walker's prison sentence is  
18 reduced to: 120 months of incarceration for Count One; 60 months of  
19 incarceration for Count Two, run consecutive to Count One; and 120 months of  
20 incarceration on Count Three, run concurrent to Count One, for a total sentence  
21 of 180 months.

22 IT IS FURTHER ORDERED Mr. Walker is sentenced to an 8-year  
23 supervised release term for Count One, 5 year supervised release term for Count  
24 Two, and 3 year supervised release term for Count Three, to run concurrently to  
25 each other, for a total of 8 years of supervised release, with the following  
26 conditions:

1 The standard conditions of supervision recommended by the Sentencing  
2 Commission.

3 The following mandatory conditions:

- 4 1. You must not commit another federal, state or local crime.
- 5 2. You must not unlawfully possess a controlled substance.
- 6 3. You must refrain from any unlawful use of a controlled substance.  
7 You must submit to one drug test within 15 days of release from  
8 imprisonment and at least two periodic drug tests thereafter, as  
9 determined by the court, not to exceed 104 tests annually.
- 10 4. You must cooperate in the collection of DNA as directed by the  
11 probation officer.


12 The following Special Condition:

13 **Search and Seizure** – You must submit your person, property, house,  
14 residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)),  
15 other electronic communications or data storage devices or media, or office,  
16 to a search conducted by a United States Probation Officer. Failure to  
17 submit to a search may be grounds for revocation of release. You must  
18 warn any other occupants that the premises may be subject to searches  
19 pursuant to this condition.

20 The probation officer may conduct a search under this condition only when  
21 reasonable suspicion exists that you have violated a condition of  
22 supervision and that the areas to be searched contain evidence of this  
23 violation. Any search must be conducted at a reasonable time and in a  
24 reasonable manner.  
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1 IT IS FURTHER ORDERED that Mr. Walker's release is delayed for 10  
2 calendar days from the date of this Order to enable the Bureau of Prisons to  
3 complete certain statutory requirements prior to Mr. Walker's release, including  
4 but not limited to notifying any victims and witnesses as required by 18 U.S.C.  
5 § 3771, and collecting DNA samples pursuant to 42 U.S.C. § 14135a.  
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7 Dated this 25 day of February, 2020.  
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13 Gloria M. Navarro, District Judge  
14 UNITED STATES DISTRICT COURT  
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